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URBAN A. LESTER

RECORDATION NO. 21365 FILED

MAY 4 '98

10-30AM

RECORDATION NO. 21365 FILED

MAY 4 '98

10-30AM

May 4, 1998

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a), are two (2) copies of a Loan and Security Agreement, dated as of May 1, 1998, a primary document as defined in the Board's Rules for the Recordation of Documents, and a Collateral Assignment of Contracts, also dated as of May 1, 1998, a secondary document related thereto.

The names and addresses of the parties to the enclosed documents are:

Assignor/Borrower: Compass Rail II  
750 Battery Street, Suite 430  
San Francisco, California 94111

Assignee/Lender: The Provident Bank  
One East Fourth Street, Suite 700  
Cincinnati, Ohio 75202

A description of the railroad equipment covered by the enclosed documents is:

one hundred ten (110) BAR railcars on the Schedule attached hereto.

RECEIVED  
SURFACE TRANSPORTATION  
BOARD  
MAY 4 10 27 AM '98

County Part - 1

Mr. Vernon A. Williams  
May 4, 1998  
Page 2

Also enclosed is a check in the amount of \$52.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed documents to the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert W. Alvord", with a stylized flourish at the end.

Robert W. Alvord

RWA/bg  
Enclosures

<u>Car Type</u>	<u>Completed Units</u>	<u>No. Cars</u>	<u>Prior Car Marks</u>	<u>New Car Marks</u>
Interchange Log Cars - AAR Designation LP/Car Type LO28		25	BAR 1287	BAR 11000
			1319	11001
			1274	11002
			1307	11003
			1317	11004
			1313	11005
			1271	11006
			1301	11007
			1293	11008
			1303	11009
			1298	11010
			1315	11011
			1290	11012
			1300	11013
			1275	11014
			1296	11015
			1314	11016
			1277	11017
			1272	11018
			1288	11019
			1306	11020
			1299	11021
			1269	11022
			1283	11023
			1273	11024
Non-Interchange Log Cars - AAR Designation LP/Car Type LO28		25	1106	12000
			1107	12001
			1108	12002
			1116	12003
			1121	12004
			1123	12005
			1125	12006
			1165	12007
			1172	12008
			1198	12009
			1199	12010
			1205	12011
			1216	12012
			1218	12013
			1224	12014
			1234	12015
			1237	12016
			1239	12017
			1243	12018
			1259	12019
			1268	12020
			1276	12021
			1284	12022
			1285	12023
			1311	12024
Wood Chip Cars - AAR Designation GTS/Car Type E700		8	1124	13003
			1147	13009
			1179	13017
			1238	13034
			1282	13051
			1297	13055
			1305	13056
			1310	13058
Total Completed Units		58		

# REMAINING UNITS - PULP RACK FLAT CARS

to be Reconstructed into

## WOODCHIP CARS

<u>Car Type</u>	<u>No. Cars</u>	<u>Existing Car Marks</u>	<u>New Car Marks</u>
Pulp Rack Flat Cars- AAR Designation LP/Car Type LO28	52	BAR 1109	BAR 13000
When reconstructed:		1110	13001
Wood Chip Cars - AAR Designation GTS/Car Type E700		1120	13002
		1128	13004
		1130	13005
		1131	13006
		1143	13007
		1144	13008
		1151	13010
		1153	13011
		1158	13012
		1171	13013
		1173	13014
		1176	13015
		1178	13016
		1185	13018
		1188	13019
		1191	13020
		1192	13021
		1193	13022
		1194	13023
		1197	13024
		1201	13025
		1203	13026
		1206	13027
		1207	13028
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		1226	13031
		1229	13032
		1235	13033
		1240	13035
		1247	13036
		1248	13037
		1249	13038
		1252	13039
		1253	13040
		1255	13041
		1256	13042
		1257	13043
		1261	13044
		1263	13045
		1264	13046
		1266	13047
		1267	13048
		1270	13049
		1281	13050
		1292	13052
		1294	13053
		1295	13054
		1308	13057
		1318	13059

MAY 4 '98

10-30AM

**COLLATERAL ASSIGNMENT OF CONTRACTS**

THIS COLLATERAL ASSIGNMENT OF CONTRACTS ("Assignment") is dated as of the 1st day of May, 1998 by and between COMPASS RAIL II, a California corporation (hereinafter, together with its successors and assigns, "Assignor") and THE PROVIDENT BANK, an Ohio banking corporation (hereinafter, together with its successors and assigns, "Assignee").

## WITNESSETH:

WHEREAS, Assignor and Assignee have entered into a certain Loan and Security Agreement dated as of the date hereof (as such agreement may be supplemented, amended, or restated from time to time, the "Loan Agreement") (all capitalized terms used herein, unless otherwise specifically defined herein, shall have the meanings assigned to them in the Loan Agreement unless the context hereof requires otherwise); and

WHEREAS, to induce Assignee to enter into the Loan Agreement and to make the Loan thereunder, Assignor has agreed to execute and deliver this Assignment in order to secure the absolute payment and performance of the Obligations of Assignor to Assignee.

NOW, THEREFORE, in consideration of Assignee making the Loan to Assignor, the parties hereby agree as follows:

1. Assignor does hereby assign, transfer, and set over to Assignee, its successors and assigns, all of Assignor's right, title and interest in and to, or arising under (i) that certain Amended and Restated Railroad Equipment Lease Agreement dated as of the date hereof by and between Assignor and Bangor & Aroostook Railroad Company, a Maine corporation ("BAR"), a true and correct copy of which is attached hereto as Exhibit A (the "Lease"), and (ii) that certain Amended and Restated Reconstruction Agreement dated as of the date hereof by and between Assignor and BAR, a true and correct copy of which is attached hereto as Exhibit B (the "Reconstruction Agreement"), and (iii) all income, profits, receipts and other payments which may arise from the Lease and the Reconstruction Agreement (collectively referred to herein as the "Contracts").

2. This Assignment is given to Assignee to secure the full and absolute payment and performance of (i) certain indebtedness of Assignor to Assignee, evidenced by a promissory note to Assignee in the aggregate principal amount of Two Million Five Hundred Eighty Thousand Eight Hundred Fifty-Six and 00/100 Dollars (\$2,580,856.00) (the "Note"), and (ii) all other Obligations of Assignor pursuant to the terms of the Loan Agreement and any other Loan Documents. Nothing herein contained shall be deemed to affect or impair any rights which Assignee may have under the Note, the Loan Agreement, or any of the Loan Documents.

3. Assignor represents, warrants and covenants to Assignee that:

(a) Assignor has the right to assign the Contracts with the written consent of BAR, which consent is attached hereto as Exhibit C.

(b) The Contracts are the valid and binding obligations of Assignor enforceable in accordance with their respective terms (subject to applicable bankruptcy and insolvency laws and other laws affecting creditor's rights generally), and Assignor has no reason to believe that the Contracts are not enforceable and in full force and effect with respect to the other parties thereto;

(c) Assignor will promptly pay, when, and as due and payable, all sums and charges payable under the Contracts, except to the extent that any such payment obligation is contested in good faith by proper proceedings and so long as Assignor has provided adequate reserves for the payment thereof.

(d) Assignor will promptly perform and observe all of the material terms, covenants and conditions required to be performed and observed by Assignor under the Contracts, within the periods provided in the Contracts, and will do all reasonable things necessary to preserve and to keep unimpaired Assignor's rights under the Contracts, except to the extent that any such obligation is contested in good faith by proper proceedings and so long as Assignor has provided adequate reserves for the same.

(e) Assignor will promptly notify Assignee in writing of any default by Assignor or any other party in the performance or observance of any of the material terms, covenants or conditions to be performed or observed on the part of the respective party under the Contracts .

(f) Assignor, without the prior written consent of Assignee, will not (i) do or permit to be done anything to impair the security of Assignee in the Contracts; (ii) collect any of the income arising or accruing from the Contracts in advance of the time when the same become; due under the terms of the Contracts; (iii) discount any future accruing payments or benefits; (iv) alter, modify or change the terms of the Contracts; or (v) exercise or assert any right of cancellation or termination reserved to it under the Contracts.

(g) Except as permitted under the Loan Agreement, Assignor will not, without the prior written consent of Assignee, assign, transfer or encumber, voluntarily or by operation of law, or allow to occur any assignment, transfer or encumbrance, voluntarily or by operation of law, of Assignor's interest in the Contracts.

(h) Assignor shall, upon the same day it shall give any material notice or correspondence to any person under either of the Contracts, deliver a copy thereof to Assignee, and whenever it shall receive any material notice or correspondence from any person under or relating to either of the Contracts, Assignor shall promptly deliver a copy thereof to Assignee.

4. Upon or at any time after and during the continuance of an Event of Default under the Loan Agreement, Assignee shall, at its option, have the right but not the obligation to succeed to Assignor's interest in the Contracts without in any way waiving such default, without notice to Assignor and without regard to the adequacy of the security for the indebtedness secured hereby, either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, and in its own name exercise any remedy or enforce any rights of Assignor under the Contracts.

5. Following an Event of Default under the Loan Agreement that has not been waived, Assignor hereby irrevocably appoints Assignee as Assignor's attorney-in-fact for the purpose of implementing any or all of Assignor's obligations and Assignee's rights and remedies with respect to the Contracts and/or this Assignment; and Assignor agrees that such power may from time to time, at the election of Assignee, be exercised in the name of Assignor by Assignee, in Assignee's name alone, or in the name of any designee of Assignee.

6. Assignee may, in conjunction with Assignee's sale or transfer of all or a portion of its interests in the Loan Agreement, assign all or any portion of its rights under this Assignment to a third party.

7. Assignor agrees that Assignee shall have no obligation to perform or discharge, nor does Assignee hereby undertake to perform or discharge, any obligation, duty, or liability under the Contracts, or under any other agreements of Assignor relating thereto. In the event Assignee declares Assignor in Default pursuant to the terms of the Loan Agreement or any other Loan Document, Assignee shall have the right, but not the obligation, pursuant to this Assignment and the terms hereof, to succeed to Assignor's interest under the Contracts.

8. Upon payment in full of all of the Obligations, Assignee shall take all action necessary to terminate its security interest in the Contracts.

9. Assignor agrees that at any time, and from time to time, upon the request of Assignee, Assignor will execute and deliver such further documents and do such further acts and things as Assignee reasonably requests in order to effect the purposes of this Assignment.

10. Assignor agrees to indemnify and hold harmless Assignee (to the full extent permitted by law) from and against any and all claims, demands, losses, judgments and liabilities for penalties and excise taxes of whatever nature, and to reimburse Assignee for all reasonable costs and expenses, including reasonable legal fees and disbursements, growing out of or resulting from the Contracts, this Assignment or the administration and enforcement or exercise of any right or remedy granted to Assignee hereunder, except any of the foregoing resulting from the gross negligence or willful misconduct of Assignee. In no event shall Assignee be liable to Assignor for

any matter or thing in connection with this Assignment other than to account for monies actually received by it in accordance with the terms hereof and for any damages caused by gross negligence or willful misconduct of Assignee.

11. Assignee shall not by any act, delay, omission or otherwise be deemed to have waived any of its rights or remedies hereunder and no waiver shall be valid unless in writing, signed by Assignee, and then only to the extent therein set forth. A waiver by Assignee of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which Assignee would otherwise have on any future occasion. No failure to exercise, nor any delay in exercising, on the part of Assignee any right, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided are cumulative and not exclusive of any rights and remedies provided by law.

12. The provisions of this Assignment are severable, and if any clause or provision hereof shall be held invalid or unenforceable in whole or in part, then such invalidity or unenforceability shall attach only to such clause or provision or part thereof and shall not in any manner affect such clause or provision in any other jurisdiction or any other clause or provision in this Assignment in any jurisdiction.

13. None of the terms or provisions of this Assignment may be altered, modified or amended except by an instrument in writing, duly executed by each of the parties hereto.

14. This Assignment shall be governed by and construed and interpreted in accordance with the laws of the State of Ohio.

15. This Assignment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

16. All notices, requests, demands and other communications provided for hereunder shall be in writing, and if addressed to Assignor, mailed or delivered to:

Compass Rail II  
750 Battery Street, Suite 430  
San Francisco, California 94111  
Attention: Stephen C. Bieneman, President

and, if to Assignee, mailed or delivered to:

The Provident Bank  
One East Fourth Street  
Cincinnati, Ohio 45202  
Attention: Forest C. Frank, Sr. Vice President

with a copy to:

Keating, Muething & Klekamp, P.L.L.  
1800 Provident Tower  
One East Fourth Street  
Cincinnati, Ohio 45202  
Attention: Richard D. Siegel, Esq.

or, as to each party, at such other address as shall be designated by such party in a written notice to the other complying as to delivery with the terms of this section. All notices, requests, demands and other communications provided for hereunder shall be deemed given or delivered if in writing addressed as provided above and if either (i) actually delivered at said address; or (ii) in, the case of a letter, three (3) Business Days shall have elapsed after the same shall have been deposited in the United States mail, postage prepaid and registered or certified.


17. This Assignment may be executed in several counterparts each of which shall constitute an original, but all of which together shall constitute one and the same agreement.

*[Remainder of page intentionally left blank. Signature page follows.]*

IN WITNESS WHEREOF, the undersigned have caused this Assignment to be duly executed and delivered as of the day and year first above written.

ASSIGNOR:

COMPASS RAIL II, a California corporation

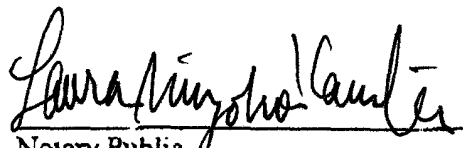
By:   
Name: Stephen C. Bieneman  
Title: President

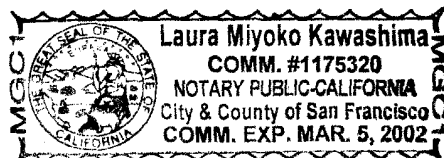
STATE OF CALIFORNIA            )  
  :  
COUNTY OF SAN FRANCISCO    )

SS:

BEFORE ME, the Subscriber, a Notary Public in and for said County and State, personally appeared Stephen C. Bieneman, President of Compass Rail II, the corporation which executed the foregoing instrument, who acknowledged he did sign said instrument as such officer on behalf of said corporation, and by authority of its Board of Directors, and that the execution of said instrument is his free and voluntary act and deed individually and as such officer, and the free and voluntary act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed by Notarial Seal this 1 day of May, 1998.

  
Notary Public





MEMORANDUM  
OF  
AMENDED AND RESTATED  
RAILROAD EQUIPMENT LEASE AGREEMENT  
May 1, 1998

THIS MEMORANDUM OF AMENDED AND RESTATED RAILROAD EQUIPMENT LEASE AGREEMENT is intended to evidence the Amended and Restated Railroad Equipment Lease Agreement dated as of May 1, 1998 (the "Lease"), between COMPASS RAIL II, a California corporation, located at 750 Battery Street, Suite 430, San Francisco, California 94111 ("Lessor"), and BANGOR & AROOSTOOK RAILROAD COMPANY, a Maine corporation, located at Northern Maine Junction Park, R.R.2, Bangor, Maine 00401 ("Lessee"), for the purpose of satisfying the requirements of recordation with the United States Department of Transportation Surface Transportation Board under 49 USC Section 11301 and with the Registrar General pursuant to Section 90 of the Railway Act of Canada. Lessor and Lessee have entered into the Lease which provides for the lease by Lessor to Lessee of the one hundred ten flatcars described in Exhibit A hereto.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Memorandum to be duly executed all as of the date first above written, and the undersigned hereby declare pursuant to 28 U.S.C. Section 1746 under penalty of perjury that the foregoing is a true and correct document and was executed on the date indicated below their signatures.

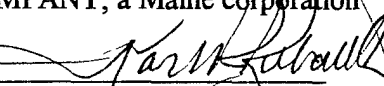
COMPASS RAIL II,  
a California corporation

By: 

Title: VP 1208

Date: 4/27/98

BANGOR & AROOSTOOK RAILROAD  
COMPANY, a Maine corporation

By: 

Title: VP 0804

Date: 30 APRIL 1998

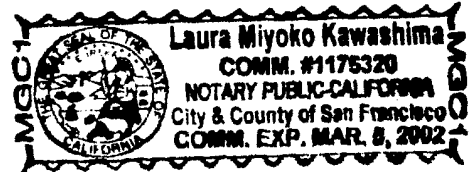
STATE OF CALIFORNIA )

COUNTY OF SAN FRANCISCO )

SS:

On this 29<sup>th</sup> day of April, 1998, before me personally appeared STEPHEN C. BLENOWAN to me personally known, who being by me duly sworn says that such person is PRESIDENT of COMPASS RAIL II, that the foregoing Memorandum of Railroad Equipment Lease Agreement was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Laura Miyoko Kawashima  
Notary Public



~~STATE OF MAINE )~~  
~~DISTRICT OF COLUMBIA )~~  
~~COUNTY OF PENOBSCOT )~~

SS:

This 30<sup>th</sup> day of April, 1998 before me personally appeared KARL R. ZIEBARTH to me personally known, who being by me duly sworn says that such person is VP & SECY of BANGOR & AROOSTOOK RAILROAD COMPANY, that the foregoing Memorandum of Railroad Equipment Lease Agreement was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Beatrice W. Melicio  
Notary Public

MY COMMISSION EXPIRES JUNE 14, 2001

My Commission Expires: \_\_\_\_\_

Schedule A to MEMORANDUM OF  
AMENDED AND RESTATED  
RAILROAD EQUIPMENT LEASE AGREEMENT

Dated May 1, 1998

Completed Units

<u>Car Type</u>	<u>No. Cars</u>	<u>Prior Car Marks</u>	<u>New Car Marks</u>
Interchange Log Cars - AAR Designation LP/Car Type LO28	25	BAR 1287 1319 1274 1307 1317 1313 1271 1301 1293 1303 1298 1315 1290 1300 1275 1296 1314 1277 1272 1288 1306 1299 1269 1283 1273	BAR 11000 11001 11002 11003 11004 11005 11006 11007 11008 11009 11010 11011 11012 11013 11014 11015 11016 11017 11018 11019 11020 11021 11022 11023 11024
Non-Interchange Log Cars - AAR Designation LP/Car Type LO28	25	1106 1107 1108 1116 1121 1123 1125 1165 1172 1198 1199 1205 1216 1218 1224 1234 1237 1239 1243 1259 1268 1276 1284 1285 1311	12000 12001 12002 12003 12004 12005 12006 12007 12008 12009 12010 12011 12012 12013 12014 12015 12016 12017 12018 12019 12020 12021 12022 12023 12024
Wood Chip Cars - AAR Designation GTS/Car Type E700	8	1124 1147 1179 1238 1282 1297 1305 1310	13003 13009 13017 13034 13051 13055 13056 13058
Total Completed Units	58		

**Schedule B to  
MEMORANDUM OF  
AMENDED AND RESTATED  
RAILROAD EQUIPMENT LEASE AGREEMENT  
Dated May 1, 1998**

**REMAINING UNITS - PULP RACK FLAT CARS**

to be Reconstructed into

**WOODCHIP CARS**

<u>Car Type</u>	<u>No. Cars</u>	<u>Existing Car Marks</u>	<u>New Car Marks</u>
Pulp Rack Flat Cars- AAR Designation LP/Car Type LO28	52	BAR 1109	BAR 13000
When reconstructed:		1110	13001
Wood Chip Cars - AAR Designation GTS/Car Type E700		1120	13002
		1128	13004
		1130	13005
		1131	13006
		1143	13007
		1144	13008
		1151	13010
		1153	13011
		1158	13012
		1171	13013
		1173	13014
		1176	13015
		1178	13016
		1185	13018
		1188	13019
		1191	13020
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		1229	13032
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		1240	13035
		1247	13036
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		1255	13041
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